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**NAVAL WAR COLLEGE
Newport, R.I.**

ANTI-PIRACY DOCTRINE: A DOCTRINAL SHORTFALL

by

Dorothy J. Reed

**Captain
United States Navy**

A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

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Abstract

The United States Navy, while releasing “A Cooperative Strategy for 21st Century Seapower,” does not have doctrine specifically written to address the issue of piracy. The U. S. Navy uses a Concept of Operations (CONOPS) to show how capabilities could be used to accomplish an objective, but this may not be enough given this newly published maritime strategy. The Navy needs to take charge of its doctrine development and not wait for piracy operations to be promulgated as formal Joint Doctrine from the Joint Staff. Writing doctrine would support the newly written “A Cooperative Strategy for 21st Century Seapower,” which stresses a unified maritime doctrine that integrates the sea services. A written doctrine would clearly delineate responsibilities, allow for consistent training, and codify vocabulary. Most important, writing Naval Doctrine for anti-piracy operations would provide for repeatable and proven procedures in this critical area of keeping the sea lanes open for global commerce.

ANTI-PIRACY DOCTRINE: A DOCTRINAL SHORTFALL

The United States Navy, while releasing “A Cooperative Strategy for 21st Century Seapower,” does not have doctrine specifically written to address the issue of piracy. The U. S. Navy uses a Concept of Operations (CONOPS) to show how capabilities could be used to accomplish an objective, but this may not be enough given this newly published maritime strategy. The Navy needs to take charge of its doctrine development and not wait for piracy operations to be promulgated as formal Joint Doctrine from the Joint Staff. The pertinent areas to be examined are: 1) the Navy’s traditional role in anti-piracy operations, 2) how the Navy supports Combatant Commanders in the repression of piracy, and 3) why the Navy should formally create that doctrine.

INTRODUCTION

The recently published “A Cooperative Strategy for 21st Century Seapower” signed by the Chief of Naval Operations, the Commandant of the Coast Guard, and the Commandant of the Marine Corps in October 2007 provides for the first time a “unified maritime strategy . . .that integrates seapower with other elements of national power . . .describes how seapower will be applied around the world to protect our way of life. . . and sustain the global, inter-connected system through which we prosper . . .[while] protecting the homeland and winning our Nation’s wars . . .[and] is matched by a corresponding commitment to preventing war.”¹ The approach to the development of this new maritime strategy was unique. Not only were the more routine participants included, but as principal stakeholders, so too was the American public. The document resulted not only from input from expert analysts, leaders, and academics, but also included citizens who participated

around the country. One reviewer of the strategy noted that this style of gathering input had not been done before as writers had sought inputs from the international leadership during International Seapower Symposiums at the Naval War College in Newport, Rhode Island in both 2005 and 2007 conferences.²

The relationship between military and political leaders is a crucial one for the successful defense of a nation as well as the successful execution of war. Military leaders have the professional responsibility to work with political leaders to develop strategy based on national policy interests in times of war and peace. The security documents that take precedence and upon which all strategy depends are hierarchically arranged. The capstone document is The National Security Strategy of the United States, published in March 2006 by the White House. Under the chapter entitled “Transforming America’s security institutions to meet the challenges and opportunities of the 21st century,”³ piracy is specifically referenced when it states “irregular challenges from state and non-state actors . . . engaging in criminal activity such as piracy.”⁴ While the National Defense Strategy does not mention piracy as overtly, it does note our responsibilities in conducting maritime defense operations which could include repression of piracy operations.⁵ A third document, entitled The National Military Strategy, further states that, “joint teamwork is an integral part of our culture and . . . we must strengthen collaboration among our joint forces.”⁶ The United States Navy works with the U.S. Coast Guard and U. S. Marine Corps in anti-piracy operations.

When the National Strategy for Maritime Security (NSMS) was published in 2005, it stated that “Maritime security is best achieved by blending public and private maritime security activities on a global scale into an integrated effort that addresses all maritime threats . . . aligns all Federal government, maritime security programs, and initiatives into a

comprehensive and cohesive national effort involving appropriate Federal, State, local, and private sector entities.⁷ The NSMS contains two specific additional plans. The Maritime Transportation System Security Plan includes “recommendations to improve the national and international regulatory framework regarding the maritime domain.”⁸ The Maritime Commerce Security Plan “establishes a comprehensive plan to secure the maritime supply chain.”⁹ Anti-piracy operations fall within the broad definition of maritime security.

THE NAVY’S TRADITIONAL ROLE IN ANTI-PIRACY OPERATIONS

In order to examine the role of the United States Navy in the repression of piracy, an understanding of what is meant by piracy is necessary. “A complete history of piracy from its earliest days ...would begin to resemble a maritime history of the world.”¹⁰ Not surprisingly, the definition has changed little over the years. In 1938, Webster defined piracy as “ a robber on the high seas, one who by open violence takes the property of another on the high seas, especially one who makes it his business to cruise for robbery or plunder; a freeboater on the seas; also one who steals in a harbor.”¹¹ The official Navy definition of piracy, from Naval Warfare Publication NWP 1-14M, The Commander’s Handbook on the Law of Naval Operations, states that, “Piracy is an international crime consisting of illegal acts of violence, detention, or depredation committed for private ends by the crew or passengers of a private ship or aircraft in or over international waters against another ship or aircraft or persons and property on board. (Depredation is the act of plundering, robbing, or pillaging.)¹²

Prior to gaining independence from Great Britain, piracy was a common occurrence off the coast of the young American colony. Blackbeard, who preyed upon the Port of Charleston around 1718, was defeated by the British, and his death marked the “beginning of

the end of pirates plundering U.S. trade routes.”¹³ One of the first historical references to the United States involvement in anti-piracy operations occurred when a fleet was ordered by Congress to deal with the Barbary pirates in the Mediterranean who were ransoming ships and crews. Commodore Edward Preble headed a squadron from Gibraltar in 1803, and was joined by local Newport resident Stephen Decatur who commanded USS INTREPID and worked with Commodore Preble in conducting anti-piracy operations off the coast of Tripoli.¹⁴ The well known pirate Jean Lafitte of New Orleans made himself dictator of Galveston with a bounty of \$5,000 on his head.¹⁵ By 1830, it was thought that maritime piracy ceased to be a significant problem anywhere in the world.¹⁶ Navies exist to defend free trade, and Mahan’s definition of the sea as a “great highway” was also supported by Sir Walter Raleigh’s quote that “whosoever commands the sea commands trade.”¹⁷ Repression of piracy assists in keeping the sea safe for shipping, and since almost 90 percent of the world’s trade is carried over the ocean, protecting shipping from piracy is of concern to America as well as the rest of the world.

Modern day piracy has become sophisticated with well armed, technologically advanced pirates who often possess navigational skills and shipboard expertise and who have progressed beyond simple boarding and theft. Following the Vietnam Conflict in 1973, a resurgence of piracy was noted. A similar increase was cited at the end of the Cold War.¹⁸ According to the U.N.’s International Maritime Organization, there was an increase in merchant shipping attacks during the 1970’s and 1980’s, and a spokesperson stated they were becoming more common in the South China Sea and off the coast of Somalia.¹⁹ The History Channel’s 2006 production on piracy included an important comment by author John Bennet,

who wrote the book, Dangerous Waters. “Merchant shipping is the lowest hanging fruit of world commerce.”²⁰

It is important not to confuse the word piracy with terrorism. Not all piracy acts are committed by terrorists and not all violence at sea is piracy. Researchers have posited that “pirates are distinguished from maritime terrorists by their motivations and consequently their attitude toward anonymity. Modern pirates are motivated by profit so try to avoid publicity and leave no traces.”²¹ The aim of terrorists is to garner media attention and create a dramatic effect.

Martin Murphy, a senior strategic analyst at the University of Reading who has published widely on maritime terrorism, piracy, and riverine warfare, defines piracy as a “crime defined by geography that requires the presence of other factors, such as a permissive political environment, cultural acceptability, and the opportunity for reward, in order to flourish.”²² He noted that unless suppressed by national or local leaders, it can still be present for centuries and that historically most new incidents have been in select areas of Southeast Asia, the Bay of Bengal, off East and West Africa as well near some coastal areas of South America.²³ Indonesian pirates thrive in the Strait of Malacca on fishing and other lightly defended vessels. Although the threat of piracy exists, local fishermen continue to accept piracy as an accepted part of doing business in that area.²⁴ In contrast, piracy incidents have increased so significantly off the coast of Nigeria that it has affected the local economy.²⁵ A more current incident occurred off the coast of Somalia where pirates hijacked a Belize flagged cargo ship carrying 33 T72 main battle tanks and other heavy weapons owned by a Ukraine shipping company. The pirates have held the ship hostage for over 28 days as of October 22, 2008.²⁶ A researcher notes that “the presence of piracy is a possible

indicator that the conditions exist for maritime insurgency or maritime terrorism to take root.²⁷ A further note is that the presence of piracy can be a “wake-up call . . . [to] remind the Navy that it cannot stand offshore immune to the complex forms of warfare that have appeared on land.”²⁸ Creating Navy doctrine would more clearly delineate responsibilities and ensure that the engaged services were handling scenarios in a similar fashion around the world.

More sinister incidents include highly organized gangs that work for a large criminal enterprise where the pirates become more “a pool of skilled labor that pirate-gang masters can call upon when needed.”²⁹ Coastal communities in at-risk states often feel the effects of piracy as manifested by corruption among local politicians, officials, and even military leaders. In the highly traveled Strait of Malacca, there may be a large number of piracy incidents, but overall, this represents a small fraction of the traffic through this area. Martin Murphy’s opinion is that a more significant issue is “a worrying lack of order: if not reversed or controlled it could allow other forms of maritime-related disorder to take root and grow, but it is difficult to eradicate, because it is an outgrowth of the divisions and corruption that infect host societies more widely.”³⁰ One may take care when assuming piracy is more of an international problem than reported in the case of highly visible incidents. Although the U. S. Navy has prevented more than 12 pirate hijackings since May 2008, it has recently been criticized for failing to protect merchant shipping. As recently as August 2008, when the International Maritime Organization called for military protection following piracy incidents off the coast of Somalia, the Navy’s Fifth Fleet responded by stating that protecting merchant shipping “requires an international solution. We made this clear at the outset—our efforts

cannot guarantee safety in the region.”³¹ International shipping groups seek more military protection in the Gulf of Aden between Yemen and Somalia to protect Gulf oil shipments.

Ensuring that the legal issues are clear to the participating services is important in creating doctrine for anti-piracy operations. According to international law, piracy can only be called piracy if committed in international waters, which includes a contiguous zone, exclusive economic zone, and the high seas.³² NWP 1-14M deals with pertinent issues involving piracy and states that “only warships, military aircraft, or other ships . . . on government service . . . may seize a pirate ship or aircraft.”³³ Personnel captured during repression of piracy operations are “taken, sent, or directed to the nearest U. S. port or airfield and delivered to U.S. law enforcement authorities for disposition according to U. S. law.”³⁴ Once a pirate ship enters territorial sea or archipelagic waters, the U. S. Navy must make a serious attempt to receive consent of a nation into whose waters a pursuing Naval vessel goes; however, the instruction allows for pursuit due to the international nature of the crime.³⁵ The United Nations allows for boarding in the case of “questionable nationality or suspected of . . . piracy.”³⁶ It is clear that while piracy is not a new criminal event on the world’s oceans, the Navy’s responsibility to work with other services to conduct anti-piracy operations is both needed and expected by the international community today. Creating Navy doctrine would assist in ensuring that all services participating in anti-piracy operations are using the same vocabulary, tactics, techniques, and procedures.

NAVY DOCTRINE AND CONCEPT OF OPERATIONS

Naval doctrine is defined as, “The foundation upon which our tactics, techniques, and procedures are built. It articulates operational concepts that govern the employment of naval forces at all levels. A product of more than 218 [sic] years of U.S. Navy and Marine Corps

experience in warfighting, it incorporates the lessons of history, learned in both the flush of success and the bitterness of failure.”³⁷ Although the Navy was formally established in March 1794 with *An Act to Provide for a Naval Armament*, it did not establish a doctrine command until 1993 with the creation of the Naval Doctrine Command.³⁸ The corresponding Secretary of the Navy Instruction (SECNAVINST) 5450.16 of September 1992 decreed that the command would be the “primary coordinating authority for the development, dissemination, and evaluation of Navy/Marine Corps doctrine.”³⁹ After multiple reorganizations, the command reported first to the Naval War College in Newport, Rhode Island as the Navy Warfare Development Command (established in 1998) and subsequently to Commander, U.S. Fleet Forces Command.⁴⁰

An oft heard opinion vis-à-vis the lack of formalized doctrine in the U.S. Navy is that its culture of independence precludes a doctrinal foundation from forming. One could suggest that the historic culture of seagoing vessels far from contact with land has contributed to the Navy’s lack of formalized doctrine. Historically, the independent ship had considerable autonomy once underway and out of U. S. territorial waters. It was less important for operations to be codified down to the deck plate level since sailors more often do not act independently on their ships. In contrast, codifying Army and Marine Corps doctrine and ensuring that it is understood at the most junior levels, enables many junior Army and Marine Corps personnel to make rapid decisions in combat without time to confer with more senior leaders.

According to Milan Vego, author of *Joint Operational Warfare*, doctrine is:

authoritative and foundational and it outlines features of national policy, security and military...a set of commonly held beliefs, principles and tenets whose purpose is to provide the organization with a common philosophy, language, purpose and unity of effort...the bridge between theory and practice and codifies

the latest thoughts in warfare, stimulates debate, and establishes a pattern of theory.⁴¹

According to Vego, doctrine should be written broadly enough for force employment in order to accomplish operational objectives. Service doctrine is more flexible and needs to avoid technological terms as scientific advances change over time. Vego writes that doctrine “needs to reflect national policy and is a synthesis of external and internal influences . . .to explain elements of national strategy . . .[and is] the core of combat philosophy” and must be modified and re-evaluated.⁴²

The Naval Warfare Development Command, as of September 2008, has promulgated 327 publications in the Navy Warfare Library that include 5 Naval Doctrine Publications (NDPs), 100 Navy Warfare Publications (NWP), 155 Navy Tactics, Techniques, and Procedures publications (NTTPs), and 67 Navy Tactical Reference Publications (NTRPs). There are 170 Allied publications which the Navy has agreed to use as of September 2008. Additionally, there are 71 Navy doctrine publication projects in development, either completely new publications or revisions to existing publications. Last year, the Navy promulgated or revised 91 publications with an additional 54 publications in 2008. Navy doctrine development timeline is 12 months which starts from the acceptance of a project proposal to the adjudication of a final draft. However, there are many projects that may go well beyond 12 months for a variety of reasons. The definitive publication that concerns doctrine development is Navy Tactics, Techniques, and Procedures, The Navy Warfare Library, (NTTP 1-01).⁴³

Commander, U.S. Fleet Forces Command tasks the Naval Warfare Development Command to produce Concept of Operations (CONOPS). CONOPS “evolve from a concept and is a description of how a set of capabilities may be employed to achieve desired

objectives or a particular end state for a specific scenario . . .takes the concepts and adds the details of who, where . . .how it is to be accomplished, employed, or executed.”⁴⁴ In February 2005, the OPNAV Corporate Board made the decision that Commander, U. S. Fleet Forces Command would be responsible for CONOPS related to capabilities currently in the Fleet and new capabilities that would be delivered to the Fleet within the Future Years Defense Plan (FYDP). Navy Warfare Development Command has the responsibility to maintain a classified master database file listing these CONOPS. Additionally, it manages the Fleet CONOPS process.⁴⁵ Operational Agents are responsible for fleet war fighting CONOPS which include the information required by those who plan and execute the missions. Platform Agents are responsible for the capabilities manning, training, and equipping. As of this writing, U. S. Fleet Forces Command has not yet tasked the Operational or Platform Agents to develop Fleet CONOPS for repression of piracy operations.⁴⁶

True to the Navy’s culture, each fleet develops, or should develop, its own piracy CONOPS. Right now, Commander, Third Fleet, has no piracy CONOPS.⁴⁷ Commander, Second Fleet also does not have specific CONOPS for repression of piracy operations.⁴⁸ Commander, Sixth Fleet has a classified Operation Task (OPTASK), but there is nothing specifically written to address piracy.⁴⁹ Due to the reported incidents in the Strait of Malacca and elsewhere in their area of operations, Commander Seventh Fleet specifically addresses anti-piracy operations in C7F Operations Order 201, a classified document.⁵⁰

Commander, Fifth Fleet has written classified CONOPS for repression of piracy operations. The unclassified sections for these operations include two phases. Phase I occurs when the U.S. Navy warship remains outside the territorial waters (12 nautical miles

offshore) and simply observes an incident. For most of the time, due to the vastness of the oceans and the Fleet's Area of Operations, warships will not be in the exact place at the exact time that piracy occurs, and by the time the Navy can respond and pursue the suspected vessel, the issue of entering the territorial waters of another country becomes apparent. Entering territorial waters often requires certain legal authorities to be in place if the Navy vessel intends to continue the pursuit. Once U.S. Navy warships know that permission is granted, they can pursue, but it is critical that the Rules of Engagement are clear. NWP 1-14 states that a United States warship can stop, board, and examine the papers for another non-governmental ship in international waters if it is suspected of engaging in piracy.⁵¹ The piracy act has to have been witnessed in order to legitimately pursue another vessel. During Phase II, the U. S. warship is a little more aggressive and watching the piracy even more closely then given permission to enter the country's territorial seas. Phase III is classified.⁵² Written Navy doctrine would allow for broad, yet consistent handling of anti-piracy operations regardless of which commander's geographical area was involved.

Creating Navy doctrine from currently existing CONOPS would assist in ensuring that all participants work using the same standardized vocabulary and would eliminate the need to recreate basic information as well as standardize training. According to one expert, Navy Tactics, Techniques, Publications (NTTP) address boarding teams and approaches, and specific doctrine must be broad enough to be flexible for each area. The theaters, coalition forces, and command task forces are all different in the different fleets, and a generic written doctrine would put Navy, Marines, and Coast Guard on the same doctrinal page. Currently, each combatant commander has his own Operational Tasks. With the turnover of leadership and the subsequent change in written OPTASKS, there could be training, manning, and

staffing challenges. A real benefit of written doctrine is that it codifies the way of doing business and makes it repeatable.

SHOULD THE NAVY WAIT FOR JOINT DOCTRINE FOR ANTI-PIRACY OPERATIONS?

One researcher suggested that the Joint Staff write doctrine for repression of piracy operations. In a recent Naval War College Joint Military Operations research paper entitled, “*A Cooperative Strategy for 21st Century Seapower: 200 Years of Repressing Piracy and Still Missing the Boat*,” the author argues that “piracy is already a focus in Joint Interdiction Planning and Homeland Defense doctrine” but states it is not being addressed at the operational level.⁵³ His recommendations include standing up a Joint Task Force as well as having the Joint Staff include piracy operations on the Universal Joint Task List (UTJL) and then write Joint doctrine.⁵⁴

While recommended that the Joint Staff create doctrine for anti-piracy operations, creating doctrine at this level is both time-consuming and requires a service sponsor. The Department of Defense’s Dictionary of Military and Association Terms has defined doctrine as “Fundamental principles by which the military forces or elements thereof guide their actions in support of national objectives. It is authoritative but requires judgment in application.”⁵⁵

The office responsible for creating Joint Doctrine is the Joint Staff which provides, manages, and tracks 73 current joint publications with four in development.⁵⁶ Developing and revising joint doctrine “follows a prescribed process which insures full participation by the Services, the Joint Staff, and the combatant commands. Development and revision timelines have also been established based on multiple years of experience using the

established development and revision process.”⁵⁷ The recommending service must propose their idea and have it validated by the other services and Combatant Commanders. Following approval, program directives include the “scope of project with references, milestones, and who will develop drafts.”⁵⁸ The chosen lead agent is not necessarily the proposing service and could also be the combatant commander or one of the Joint Staff directorates. Following the required two drafts, a Primary Review Authority (PRA) begins development, a lengthy process involving Chairman approval and coordination with the Services. Once promulgated as a Joint Publication, assessments and revision occur once the Combatant Commanders have had the opportunity to use it, and each publication is supposed to be revised no later than five years following promulgation. The overall timeframe can be 18- 24 months but could proceed more quickly if there is urgency.⁵⁹ At this time, repression of piracy operations is not listed on the Joint Staff Universal Joint Task List (UTJL) so that document would need to be changed as well.⁶⁰ It seems premature to recommend that the Joint Staff create a new doctrine at this time if the Navy has not yet even required standardized CONOPS, let alone written any doctrine for anti-piracy operations.

CONCLUSIONS AND RECOMMENDATIONS

The Global War on Terrorism has turned a new light on the maritime environment and reveals it to be a more dangerous place to conduct repression of piracy operations. The sophistication of today’s pirates cannot compare to the era of Blackbeard and Jean Lafitte. The dangers are more serious both for the merchant vessels and the military members who assist in the repression of piracy operations. Differentiating between acts of terrorism and acts of piracy is crucial in today’s world, and each commander has similar yet different

challenges in his area of operations. The Navy, Coast Guard, and Marine Corps working together require a common language and practices that are clear to all involved in anti-piracy operations.

“A Cooperative Strategy for 21st Century Seapower” is an important step to put the Navy, Coast Guard, and Marine Corps and their military efforts in a more codified joint arena for the purposes of national security. It is clear that the three services can and must work together to keep our earth’s oceans safe for our national interests. The three services “will act across the full range of military operations to secure the United States from direct attack; secure strategic access and retain global freedom of action; strengthen existing and emerging alliances and partnerships and establish favorable security conditions.”⁶¹

The Chairman of the Joint Chiefs of Staff assumed this role after having worked as the Chief of Naval Operations during the writing of “A Cooperative Strategy for 21st Century Seapower.” In the last several months, while attending conferences overseas, Admiral Mullen remarked on how well Malaysia, Singapore, and Indonesia are doing in combating piracy when he stated, “The nations are working together to confront mutual problems . . . Pirates used the seams between nations in the Strait of Malacca to prey on vessels sailing the strategic chokepoint . . .”⁶² Cooperation not only among nations but among our U. S. military services with written Navy anti-piracy doctrine will strengthen our position with other nations as all work together to combat piracy. While addressing the U. S. Coast Guard Foundation in June 2008, the Chairman praised their role around the globe. Admiral Mullen’s comments about the contribution made by the U. S. Coast Guard in “building partnerships to help combat piracy” was noted by John Kruzel, who captured the Chairman’s visit in his article for the American Forces Press Service.⁶³

The Navy needs to take the lead in creating anti-piracy doctrine. Waiting for the Joint Staff to do it requires someone to propose it, and no service has a more traditional role in fighting piracy than the U. S. Navy. Writing doctrine would support the newly written “A Cooperative Strategy for 21st Century Seapower,” which stresses a unified maritime doctrine that integrates the sea services. A written doctrine would clearly delineate responsibilities, allow for consistent training, and codify vocabulary. Most important, writing Naval Doctrine for anti-piracy operations would provide for repeatable and proven procedures in this critical area of keeping the sea lanes open for global commerce.

Codifying Navy Doctrine is recommended for anti-piracy operations, and U. S. Navy Fleet Forces Command should look to create first CONOPS through the Navy Warfare Development Command, then work to create Navy Doctrine. That operational commanders and joint task forces already work well together to ensure that the crucial straits remain free of piracy is not being challenged. However, the current joint environment demands that all contributors use and understand the same common language and not be subject to leadership changes and procedural misunderstandings. The continued efforts of the United States Navy, Marine Corps, and Coast Guard to work together following a cooperative maritime strategy are vital to continue to protect United States interests both on the homeland, abroad and at sea.

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